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DATE:

September 13, 2004

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703-872-9306

TOTAL NO. OF PAGES (INCLUDING COVER SHEET):

11

YOUR REFERENCE NO.:

App. No. 09/625,277

OUR REFERENCE (C/M) No.:

005156.00004

RE:

Request for Withdrawal of Notice of Abandonment

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Respectfully submitted,

By:

Thomas L. Evans, PPO Reg. No. 35,805
BANNER AND WITCOFF, LTD.Atty. Docket No.
005156.00004PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

M. Todd SCHOMER

Examiner: S. Shah

U.S. Pat. App. No.: 09/625,277

Group Art Unit: 2176

Filed: July 25, 2000

For: PREVIEW WINDOW TO PREVIEW TEXT IN SEVERAL DIFFERENT FONTS
SIMULTANEOUSLYREQUEST FOR WITHDRAWAL OF NOTICE OF ABANDONMENTAssistant Commissioner for Patents
Washington, D.C. 20231

Sir:

On August 12, 2004, the Primary Examiner issued a Notice of Abandonment for the above-identified application. The Notice was issued on the basis of Applicant's alleged failure to respond to the previous Office Action of December 19, 2003.¹ Applicant respectfully submits that Applicant actually submitted not one but two timely responses to that Office Action. It is therefore requested that the holding of abandonment of this application be withdrawn.

1. The Notice states that Applicant has failed "to timely file a proper reply to the Office letter mailed on 15 December 2003." (*Emphasis added.*) Applicant respectfully points out that the Office Action in question actually was dated December 19, 2003. A copy of the cover page for that Office Action showing its December 19, 2003, issue date is attached.

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Applicant timely submitted an Amendment by facsimile transmission in this application on March 19, 2004. During a personal interview granted to the undersigned by Primary Examiner Shah on June 17, 2004, to discuss the substance of the Amendment, the Primary Examiner acknowledged receipt of the Amendment. The Primary Examiner further indicated, however, that the Amendment had been received without the undersigned's signature, and thus had not been entered by the Primary Examiner's clerks.

It is respectfully submitted that this handling of the initial Amendment was improper.

MPEP §714.01 states:

When an unsigned or improperly signed amendment is received the amendment will be listed on the file wrapper, but not entered. *The examiner will notify applicant of the status of the application, advising him or her to furnish a duplicate amendment properly signed or to ratify the amendment already filed.* In an application not under final rejection, applicant should be given a 1-month time period in which to ratify the previously filed amendment.

In the instant application, however, Applicant was never given the opportunity to ratify the Amendment. Further, Applicant was not even informed that a signature was missing from the Amendment until the personal interview.

Immediately after the personal interview, Applicant submitted a Resubmission Of Amendment. This Resubmission submitted another copy of the Amendment filed on March 19, 2004. A copy of the Resubmission is attached, together with an Express Mail Receipt showing that the Resubmission was timely submitted on June 21, 2004 (June 19, 2004 and June 20, 2004, being a Saturday and Sunday, respectively) and a stamped postcard confirming that the Resubmission was received by the U.S. Patent and Trademark Office with an effective filing date

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of June 21, 2004.

In particular, the Resubmission explained that the originally-filed Amendment was, in fact, signed by Applicant prior to submission using electronic ink, and that an electronic copy of the Amendment was then directly faxed to the U.S. Patent and Trademark Office using the Rightfax facsimile software application (i.e., without physically printing out a paper copy of the Amendment). While the U.S. Patent and Trademark Office accurately received the text of the Amendment, the undersigned's signatures (both for the Amendment itself and for the associated Certificate of Transmission) were not properly printed by the U.S. Patent and Trademark Office's facsimile machine. It also pointed out that the MPEP requires that Applicant be provided with notice of the omitted signature and the opportunity to ratify the unsigned Amendment. Accordingly, the Resubmission urged that the Amendment had been timely submitted to the U.S. Patent and Trademark Office on March 19, 2004, *with* the required signature under 37 C.F.R. §1.4. It further requested that the Amendment be entered and be given its original submission date of March 19, 2004.

In addition, the Resubmission requested that, if the Commissioner did not accept the original filing date of the Amendment, the Examiner enter the attached copy of the Amendment and accept the Resubmission as a Petition for a three month extension of time. The Commissioner was then authorized to charge the associated extension fees, as well as any other fees that may be required, including any fees under 37 C.F.R. §1.16 or §1.17, to Deposit Account No. 19-0733.

Upon receiving the Notice of Abandonment dated August 16, 2004, the undersigned

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immediately telephone Primary Examiner Shah on August 19, 2004, to ask that the holding of abandonment be withdrawn. The Primary Examiner agreed that the Notice was issued in error, and indicated that he would withdraw the holding of abandonment as requested. Applicant therefore presents this written Request simply as a formal submission of the request personally made to the Primary Examiner on August 19, 2004, and asks that any terms or periods associated with a request for withdrawal of the Notice of Abandonment be calculated from that original request date of August 19, 2004.

Applicant again submits that each of the originally-filed Amendment and the Resubmission of Amendment constituted a complete and timely response to the Office Action of December 19, 2004. Applicant therefore asks that the holding of abandonment be withdrawn, and that the prosecution of this application continue without interruption.

It is believed that no fees are due for the submission and consideration of this Request. If, however, the Commissioner believes that any fees are necessary for the consideration and entry of this Request or to otherwise reinstate and/or maintain the pendency of this application, including any fees under 37 C.F.R. §1.16 or §1.17, then the Commissioner is hereby authorized to charge such fees to Deposit Account No. 19-0733.

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Atty. Docket No.: 005156.00004

Favorable action regarding this Request is respectfully solicited at the Primary
Examiner's earliest opportunity.

Respectfully submitted,

BANNER & WITCOFF, LTD.

By: Thomas L. Evans
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September 13, 2004

JMP/TLE



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/625,177	07/25/2000	M. Todd Schomer	05156.00004	6790

21907 7590 12/19/2003

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EXAMINER

SHAM, SANJIV

ART UNIT PAPER NUMBER

2176

DATE MAILED: 12/19/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

005156.00004
DOCKETEDSH

DEC 22 2003

amend due: 3.19.04

Last day: 6.19.04

E 410136176US

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Respectfully submitted,

By:


Thomas L. Evans, PTO Reg. No. 35,805
BANNER AND WITCOFF, LTD.

Atty. Docket No.
005156.00004

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:

M. Todd SCHOMER

Examiner: S. Shah

U.S. Pat. App. No.: 09/625,277

Group Art Unit: 2176

Filed: July 25, 2000

For: **PREVIEW WINDOW TO PREVIEW TEXT IN SEVERAL DIFFERENT FONTS
SIMULTANEOUSLY**

RESUBMISSION OF AMENDMENT UNDER 37 C.F.R. §1.8

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicant timely submitted an Amendment by facsimile transmission in this application on March 19, 2004. During a personal interview granted to the undersigned by Examiner Shah on June 17, 2004, however, the undersigned discovered that the Amendment was received without the undersigned's signature, and thus had not been entered.

Applicant asks that the Amendment be entered and, further, be given its original submission date of March 19, 2004. A copy of the Amendment, as filed is attached. As

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evidenced by this copy, the Amendment was, in fact, signed by Applicant prior to submission using electronic ink. An electronic copy of the Amendment was then directly faxed to the U.S. Patent and Trademark Office using the Rightfax facsimile software application (i.e., without physically printing out a paper copy of the Amendment). Apparently, while the U.S. Patent and Trademark Office accurately received the text of the Amendment, the undersigned's signature (both for the Amendment itself and for the associated Certificate of Transmission) were not properly printed by the U.S. Patent and Trademark Office's facsimile machine.

Applicants therefore submit that the Amendment was timely submitted to the U.S. Patent and Trademark Office on March 19, 2004, *with* the required signature under 37 C.F.R. §1.4. Further, MPEP §714.01 states that

When an unsigned or improperly signed amendment is received the amendment will be listed on the file wrapper, but not entered. The examiner will notify application of the status of the application, advising him or her to furnish a duplicate amendment properly signed or to ratify the amendment already filed. In an application not under final rejection, application should be given a 1-month time period in which to ratify the previously filed amendment.

In the instant application, however, Applicant was never informed of the signatures missing from the Amendment or given the opportunity to ratify the Amendment.

Applicant therefore asks that the Amendment filed on March 19, 2004, be entered and receive the benefit of its original facsimile transmission date. If, for some reason, the Commissioner does not accept the original filing date of the attached Amendment, then Applicants respectfully ask that the Examiner enter the attached copy of the Amendment, and accept this paper as a Petition for a three month extension of time. The Commissioner is then

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authorized to charge the associated extension fees, as well as any other fees that may be required,
including any fees under 37 C.F.R. §1.16 or §1.17, to Deposit Account No. 19-0733.

Respectfully submitted,

BANNER & WITCOFF, LTD.

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June 21, 2004

